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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/431,519	11/01/1999	SHIH CHUNG	AH0948Q	8808

7590

03/19/2003

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EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 03/19/2003

24

Please find below and/or attached an Office communication concerning this application or proceeding.

MR. BERNSTEIN

Communication Re: Appeal

Application No.

09/431,519

Applicant(s)

CHUNG ET AL.

Examiner

Neil L vy

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. ☒ The Notice of Appeal filed on 16 February 2003 is not acceptable because:

- (a) ☐ it was not timely filed.
- (b) ☐ the statutory fee for filing the appeal was not submitted. See 37 CFR 1.17(b).
- (c) ☐ the appeal fee received on _____ was not timely filed.
- (d) ☐ the submitted fee of \$_____ is insufficient. The appeal fee required by 37 CFR 1.17(b) is \$_____.
- (e) ☒ the appeal is not in compliance with 37 CFR 1.191 in that there is no record of a second or a final rejection in this application.
- (f) ☐ a Notice of Allowability, PTO-37, was mailed by the Office on _____.

2. ☒ The appeal brief filed on 21 February 2003 is NOT acceptable for the reason(s) indicated below:

- (a) ☒ the brief and/or brief fee is untimely. See 37 CFR 1.192.
- (b) ☐ the statutory fee for filing the brief has not been submitted. See 37 CFR 1.17(c).
- (c) ☐ the submitted brief fee of \$_____ is insufficient. The brief fee required by 37 CFR 1.17(c) is \$_____.

The appeal in this application will be dismissed unless corrective action is taken to timely submit the brief and requisite fee. Extensions of time may be obtained under 37 CFR 1.136(a).

3. ☐ The appeal in this application is DISMISSED because:

- (a) ☐ the statutory fee for filing the brief as required under 37 CFR 1.17(c) was not timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.
- (b) ☐ the brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.
- (c) ☐ Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on _____.
- (d) ☐ other: _____

4. ☐ Because of the dismissal of the appeal, this application:

- (a) ☐ is abandoned because there are no allowed claims.
- (b) ☐ is before the examiner for final disposition because it contains allowed claims. Prosecution on the merits remains CLOSED.
- (c) ☐ is before the examiner for consideration of the submission and prosecution has been reopened pursuant to 37 CFR 1.114.

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Notice did not indicate claims, so presumption was they were twice rejected claims; however the Brief, later filed, & received AFTER the after final amendment was acted on, addressed claims never examined. See MPEP 37 CFR 1.191 (a). The non-examined claims, if desired to be considered, should not be presented in a Brief, but rather in an appropriate vehicle in accord with PTO practice.

Neil S. Levy, Ph.D.

NEIL S. LEVY
PRIMARY EXAMINER